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January 14, 2020

Via ECF

Honorable Barbara C. Moses, U.S.M.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

MEMO ENDORSED

Re: Francisco Bautista v. Venture 2275, et al
Case No.: 19-cv-00916 (AJN) (BCM)

Your Honor:

This firm represents all Plaintiff, Francisco Bautista, in the above-referenced wage and hour action brought against Defendants, Venture 2275 LLC and Anthony Nisthalal, for alleged violations of the Fair Labor Standard Act and the New York Labor Law. We submit this letter to request that the Court allow Plaintiff to be available by telephone for tomorrow's settlement conference, rather than require his physical presence. This is the first time we are making this request and it is being made out of sheer necessity.

Late yesterday, Plaintiff advised us that he was in his home country of the Dominican Republic due to a medical emergency regarding his brother who was hospitalized. Plaintiff further advised us that he would not be able to return to the United States until January 17th. Rather than outright cancel this settlement conference for which Plaintiff's counsel has already prepared to attend, we ask that Plaintiff be allowed to participate by phone (on speed dial, to be contacted whenever necessary), as opposed to being physically present. Plaintiff states that he will have access to his phone the entire afternoon of the conference. Accordingly, we further ask that Plaintiff's counsel be permitted to bring his cell phone to the conference to keep in contact with Plaintiff during the settlement conference.¹

Prior to making this application, we reached out to defense counsel, Jonathan Silver, to apprise him of the situation and receive his input on the situation. However, after waiting the

¹ The undersigned does not have a pass to bring in electronics to the Southern District of New York.

entire evening/night for his response and not receiving one, we were constrained to file this letter this morning. We apologize to the Court for making this request last minute. Simply put, there was not way we could have made it sooner.

We thank the Court for its attention and consideration to this matter.

Respectfully submitted,

/s/
Louis M. Leon, Esq. (LL 2057)

Application DENIED. In light of plaintiff's inability to attend the settlement conference, and after reviewing the parties' untimely pre-conference submissions (which do not suggest that holding a settlement conference at this time would be a productive use of the parties' or the Court's time), the settlement conference scheduled for January 15, 2020, at 2:15 p.m. is ADJOURNED *sine die*.

In its stead, Judge Moses will conduct a telephonic settlement conference, with counsel only, on **January 15, 2020, at 2:15 p.m.** Counsel for the parties are directed to call (212) 805-0228 a few minutes before 2:15 p.m., with **both attorneys on one line**. The purpose of the telephonic conference is determine whether and when to reschedule the settlement conference.

SO ORDERED.



Barbara Moses, U.S.M.J.
January 14, 2020